

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

George Hofmann,
Chapter 7 Trustee of
the Estate of SIMPLY, INC.,

Plaintiff,

v.

SOL GLOBAL INVESTMENTS CORP.,
and SOL VERANO BLOCKER 1 LLC,

Defendants.

No. 22-CV-1007 (KPF)
(ECF Case)

**AFFIRMATION OF MIRIAM TAUBER IN SUPPORT OF PLAINTIFF'S MOTION
FOR AN ORDER TO SHOW CAUSE DIRECTING TURNOVER OF ASSETS**

I, MIRIAM TAUBER, affirm the following upon my oath as an attorney, intending the penalties of perjury to apply pursuant to 28 U.S.C. § 1746, state the following in support of Plaintiff's accompanying Motion for an Order to Show Cause Directing Turnover of Assets:

1. I am an attorney of record for Plaintiff and a member of the Bar of this Court.
2. In their audited financial statements dated **May 1, 2023**, Defendants "recorded" the \$500,000 Settlement payment that Simply agreed to pay to settle the Litigation, under the Stipulation approved by the Bankruptcy Court for the District of Utah overseeing Plaintiff's Chapter 7 proceedings and ordered by this Court, under "Liabilities and Contingencies." Defendants did not then, and have not at any time since, voluntarily paid any portion of the Settlement payment owed to Plaintiff.
3. Following the Court's entry of the Consent Judgment on **May 2, 2023** (Dkt. 46) as provided by the Stipulation, I obtained a Writ of Execution to enforce the Judgment from the Clerk of Court on **June 5, 2023**.

4. On **June 14, 2023**, I sent a Restraining Notice to the Defendants/Judgment Debtors, SOL Global Investments Corp. (“SOL Global”) and its wholly owned subsidiary, SOL Verano Blocker 1, LLC, via registered mail.

5. On June 14, 2023, I also sent a Restraining Notice with Information Subpoena to the law firm **Quinn Emanuel LLP Urquhart & Sullivan LLP**, and the individual Quinn Emanuel attorneys that represented Defendants in this matter, including **Alex Spiro**, who was previously a member of the board of directors of SOL Global.

6. On **July 3, 2023**, I sent a Restraining Notice With Information Subpoena by email and certified mail to **Verano Holdings, LLC**, and Verano Holdings Corp., entities in which Defendants report they own shares, by email and certified mail. On **July 17, 2023**, Verano Holdings responded and identified Odyssey as the transfer agent with custody of or information about Verano shares owned by the Defendants.

7. On **July 5, 2023**, I sent a Restraining Notice With Information Subpoena by email and certified mail to **Jones Soda Co.**, in which Defendants report they own shares, and to Jones Soda’s board Chairman, **Paul Norman**. Paul Norman is also a director of Heavenly Rx, the owner of accounts that are the subject of Plaintiff’s Motion and further discussed below.

8. On **July 7, 2023**, I sent a Restraining Notice With Information Subpoena by email and certified mail to **Odyssey Trust Co.**, the transfer agent for several companies in which Defendants report they owned shares.

9. On **July 7, 2023**, Quinn Emanuel responded to Plaintiff’s Restraining Notice/Information Subpoena and identified three banking institutions from which payments were received by or on behalf of the Defendants: (i) Citibank (NY); (ii) Synovus Bank; and (iii) Associated Foreign Exchange Corp. a/k/a Cambridge Mercantile Corp. (dba “AFEX” or

“Corpay”). Between **July 10 and July 13, 2023**, I sent a Restraining Notice with Information Subpoena to each of the institutions identified in Quinn’s initial response.

10. On **July 14, 2023**, Synovus Bank advised that no accounts in Defendants’ names were located in response to the Restraining Notice with Information Subpoena. On **July 25, 2023**, Citibank similarly advised that no accounts in Defendants’ names were located in response to the Restraining Notice with Information Subpoena.

11. On **July 21, 2023**, Corpay’s counsel responded to the Information Subpoena and advised that Corpay had restrained approximately \$25,000 in cash held for the benefit of Defendant SOL Global Investments Corp. On **July 26, 2023**, I instructed the U.S. Marshal for this District to serve the Writ of Execution on Corpay at Corpay’s New York offices within this District, at 1350 Broadway, Suite 810, New York, New York 10018. **On August 2, 2023, Corpay delivered the restrained funds of \$25,000 to the U.S. Marshal.** On **August 18, 2023**, the funds were delivered to me by the U.S. Marshal. These funds are now held in an attorney trust account pending the Court’s decision on this Motion.

12. On **July 24, 2023**, Quinn Emanuel provided a Supplemental Response to Plaintiff’s Restraining Notice/Information Subpoena, which identified 6 originating accounts, held in 6 different entity names, at 5 different banks, as the source of payments to Quinn on behalf of the Defendants. Only one of these accounts was held directly in the name of a Defendant—an account identified as owned by SOL Global at “Barclays Bank, PLC.” The 5 additional accounts identified in Quinn’s Supplemental Response were held in the name of the following entities: (i) **Cobb Eddy PLLC**; (ii) **Namaste Gorgie LLC**; (iii) MTC Holdings LP; (iv) BDI LP; and (v) FG Investments LP.

13. On **August 11, 2023**, I sent a Restraining Notice With Information Subpoena to Barclays Bank, PLC. On **August 29, 2023**, Barclays Bank, PLC, responded that no responsive records exist “in its possession or custody in the United States.”

14. On **August 15, 2023**, *I received a voice message from Paul Kania, CEO of SOL Global, asking me to call him back directly.* Mr. Kania previously served as SOL Global’s CFO and is currently a member of the board of **Heavenly Rx Ltd.** (further discussed below).

15. Upon receiving Mr. Kania’s message, I immediately contacted Defendants’ attorneys at Quinn Emanuel to advise of the communication from the Defendants. Alex Spiro, Defendants’ counsel of record at Quinn Emanuel (and former SOL Global board member) advised that Quinn no longer represented the Defendants. I then returned Paul Kania’s phone call.

16. When we spoke by phone on **August 17, 2023**, Mr. Kania informed me that the purpose of his call was to inquire whether I was amenable to negotiating an extension of their payment obligations under the Settlement. The reason provided for the extension request was that Defendants’ unnamed lenders were refusing to allow funds to be released to other “creditors.” Mr. Kania suggested that “under Canadian law,” the interests of Defendants’ lenders take would priority over their obligation to pay the Consent Judgment owed to Plaintiff. Mr. Kania is a Certified Professional Accountant licensed by the State of New York. Nonetheless, Mr. Kania expressed indifference as to whether a contrary priority was dictated by the laws of the United States and, more specifically, the Court’s Order. I informed Mr. Kania that absent any guarantee of Defendants’ eventual payment, Plaintiff would not defer collection and ongoing enforcement efforts would continue.

17. On **August 17, 2023**, Jones Soda's response to Plaintiff's Restraining Notice/Information Subpoena identified Odyssey as the transfer agent with custody of or information about Jones Soda (JSDA) shares owned by the Defendants.

18. On **August 23, 2023**, Odyssey Trust Co. responded to Plaintiff's Restraining Notice/Information Subpoena. Odyssey's response identified a total of 30 accounts held by the Defendants and their wholly owned subsidiaries or corporate aliases. ***8 accounts identified by Odyssey with a positive balance are restrained pending satisfaction of the Consent Judgment:***

<u>Owner</u> (Account #)	<u>Account Balance</u> Issuer, Type/Number of Shares	<u>Restrictions</u> (Notes)	<u>Mkt Value*</u> (Price/share)
SOL Global Investments Corp. (18604-1)	House of Lithium Ltd. 6,488,479 Class A Common	Restricted (HOUSE-NI-08NOV21)	
SOL Global Investments Corp. (20626-1)	House of Lithium Ltd. 6,494,569 Class B shares	Restricted (HOUSE-NI-08NOV21)	
SOL Verano Blocker 1, LLC (14784-1113)	Simply Better Brands Corp. (SBBC) Common Stock, 65,660 DRS	Restricted (21888 SBBC-LOCKUP-17AUG23)	\$11,819 (\$0.18/share)
SOL Verano Blocker 1, LLC (20626-2)	House Of Lithium Ltd. 34,264,207 Class B shares	Restricted (HOUSE-1933)	
Namaste Gorgie Inc. (1884-11)	Bluewater Acquisition Corp. Common Stock, 20,000 DRS ----- Bluma Wellness Inc. Unex'd Com 1:0.0, 252,000 DRS	Not Restricted	\$600 (\$0.03/share) -----
Namaste Gorgie Inc. (3006-6746)	Cresco Labs Inc. Sub Voting Shares, 216,468 shares (to be received upon exchange of Bluma Wellness shares)	Not yet Issued	\$372,325 (\$1.72/share)
Heavenly Rx Ltd. (14784-155)	Simply Better Brands Corp. (SBBC) Common Stock, 282,512 DRS	Not Restricted	\$50,852 (\$0.18/share)
Heavenly Rx Ltd. (20409-1155)	Simply Better Brands Corp. (SBBC) Common Stock, 590,401 DRS	Not Restricted	\$106,272 (\$0.18/share)
		<u>Total Value</u>	\$541,868

* Value/pricing reflects closing market prices converted from Canadian to U.S. Dollars, on 10/5/2023.

19. **Namaste Gorgie Inc.** is one of the entities identified by Quinn Emanuel as having paid the Defendants' legal bills in connection with this Litigation. Namaste Gorgie is a Florida entity incorporated by Catherine DeFrancesco (the wife of former SOL Global CEO Andrew DeFrancesco), which owned CannCure, Inc. when acquired by SOL Global (f/k/a Scythian Biosciences) in 2018. SOL Global holds interests in other companies through Namaste Gorgie, including **Bluma Wellness**, as described in the table above. SOL Global former CEO Brady Cobb is the current CEO of Bluma Wellness.

20. Court filings signed by the Defendants state that **Heavenly Rx Ltd.** and Heavenly Rx, LLC, are corporate aliases ("dba"s) of SOL Global; and further describe Heavenly Rx Ltd. as the Canadian parent of Heavenly Rx, LLC, a Florida limited liability company. The address provided by Heavenly Rx, LLC in court filings is the same address identified by Quinn as the address on file for Namaste Gorgie, Inc. Odyssey's records indicate the same address on file for Heavenly Rx and for SOL Global.

21. SOL Global appoints the members of the board of Heavenly Rx, which include: CEO Paul Norman (who is also the CEO of Jones Soda, as discussed above); Brady Cobb of Cobb Eddy PLLC (former SOL Global CEO, now the CEO of SOL Global subsidiary Bluma Wellness, and one of the sources of payment of Defendants' legal bills, per Quinn's Supplemental Response discussed above); and former Westchester County, New York District Attorney and television "Judge" Jeanine Pirro.

22. SOL Global board members, including Brady Cobb and Peter Liabotis, are the registered agents and incorporators for several other "Heavenly Rx" entities operating within the United States. Heavenly Rx does business within this District under the names of several marijuana

sector companies acquired by Heavenly Rx, including Bluma, MedMen, CannCure, and “Tru” brands.

23. The contacts named in Odyssey’s records for the Heavenly Rx accounts are current or former SOL Global executives with “SolGlobal.com” email addresses. SOL Global executive Peter Liabotis authorized the post-Consent Judgment transfers of stock from the Heavenly Rx accounts held at Odyssey to brokerage accounts outside of the Court’s jurisdiction in response to Plaintiff’s efforts to enforce the Consent Judgment, as further discussed below.

24. Odyssey’s response to Plaintiff’s Restraining Notice/Information Subpoena identified the following *transfers from accounts owned and controlled by the Defendants after May 2, 2023, when the Consent Judgment was entered in this case* (see Dkt. 46), which was itself a month after the first installment payment was due to be paid by the Defendants under the Stipulation of Settlement approved by the Bankruptcy Court and ordered by this Court:

<u>Account Owner</u> (Account #)	<u>Transfer Date</u> Transfer Amount, Recipient	<u>Value of Shares Transferred*</u> Balance Remaining in Account
SOL Global Investments Corp. (14784-196)	<u>07/04/2023</u> 3,300,000 SBBC shares Transferred to NESPC II LP	Value Transferred: \$1,287,000 (@ \$0.39/share) Balance: 0 shares
SOL Verano Blocker 1, LLC (14784-1113)	<u>07/04/2023</u> 3,300,000 SBBC shares Transferred to NESPC II LP	Value Transferred: \$1,287,000 (@ \$0.39/share) Balance: 65,660 shares
Heavenly Rx Ltd. (14784-155) <u>Transfers Directed by:</u> Jacob@SOLGlobal.com	<u>07/10/2023</u> 467,414 SBBC shares Transferred to CDS & CO Broker ID D202318801501\PISV	Value Transferred: \$177,617 (@ \$0.38/share) Balance: 282,512 shares
	<u>06/30/2023</u> 220,000 SBBC shares Transferred to Pererdean Inv. Ltd.	Value Transferred: \$88,000 (@ \$0.4/share)
	<u>05/19/2023</u> 160,119 SBBC shares Transferred to DA EDDY PLLC	Value Transferred: \$65,648 (@ \$0.41/share)

<u>Account Owner</u> (Account #)	<u>Transfer Date</u> Transfer Amount, Recipient	<u>Value of Shares Transferred*</u> Balance Remaining in Account
Heavenly Rx Ltd. (20409-1155) <u>Transfers Directed by:</u> Peter Liabotis Peter@SOLGlobal.com	<u>7/10/2023</u> 5,000,000 Jones Soda (JSDA) shares Transferred to <i>Cede & Co</i> Broker ID P202318800472	<u>Value Transferred: \$950,000</u> <u>(@ \$0.19/share)</u> <u>Balance: 0 shares</u>
	<u>05/09/2023</u> 1,500,000 JSDA shares Transferred to <i>Blue Sky Inv. LP</i>	<u>Value Transferred: \$315,000</u> <u>(@ \$0.21/share)</u>
Blue Sky Investment LP (20409-66)	<u>5/17/2023</u> 1,500,000 JSDA shares Transferred to <i>Cede & Co</i> Participant 00005075 PI Finan Broker Contact: FYL Fortunato	<u>Value Transferred: \$300,000</u> <u>(@ \$0.2/share)</u> <u>Balance: 0 shares</u>
NESPC II LP (14784-1192)	<u>07/10/2023</u> 5,000,000 SBBC shares Transferred to <i>CDS & CO</i> Broker ID D202318887402\HAYV	<u>Value Transferred: \$1,900,000</u> <u>(@ \$0.38/share)</u> <u>Balance: 0 shares</u>

* Value/pricing reflects closing market price on transfer date

25. On **July 4, 2023**—*the day after I sent a Restraining Notice With Information Subpoena to Verano Holdings asking for the identity of Odyssey* (i.e., as the transfer agent with custody or information about Defendants’ ownership interest in Verano Holdings)—*the Defendants SOL Global and SOL Verano Blocker 1, LLC transferred Simply Better Brands (SBBC) shares worth over \$2.5 million out of the Odyssey accounts held directly in their names.*

26. On **July 10, 2023**—*the next business day after I sent the Restraining Notice and Information Subpoena to Odyssey, which specifically inquired about Defendants’ interests in Heavenly Rx and Jones Soda—Defendants caused Heavenly Rx to transfer additional Simply Better Brands (SBBC) and Jones Soda Co. (JSDA) stock worth over \$1 million from Odyssey accounts held in the name of Heavenly Rx.* On the same day, Defendants also transferred \$1.9 million worth of SBBC stock from the “NESPC II” account to which Defendants had initially transferred SBBC shares on July 4, 2023.

27. The SBBC shares remaining in the Odyssey accounts held directly in Defendants' names, and in the Namaste Gorgie and Heavenly Rx accounts owned and controlled by the Defendants, are the subject of Plaintiff's accompanying Motion for a Turnover Order.

28. **Simply Better Brands Corp.**, the issuer of SBBC stock held in the Odyssey accounts that are the subject of this Motion, was formerly known as PureKana, LLC; and became "Simply Better Brands" in connection with an investment in the company by Defendants through Heavenly Rx. One of the board members of Simply Better Brands was also on Plaintiff's board. The Plaintiff—the Trustee of the Estate of Simply, Inc.—is not aware of any further connection to Simply Better Brands.

29. Defendants report that **Blue Sky Holdings USA Inc.**, a Florida corporation, is a wholly owned subsidiary of SOL Global, through which Defendants entered into a joint venture with **LivWrk**, a Brooklyn-based company owned and controlled by **Asher Abehsera**. The joint venture operates as **LivWrk SOL Wynwood LLC** and owns interests in real property in Miami, Florida. Defendants further report that the assets of Blue Sky are currently pledged to secure SOL Global's ongoing severance payment obligations to former CEO Andrew DeFrancesco, who is currently facing an SEC enforcement action arising from his manipulative trading of Plaintiff's stock.


30. I initially sent a Restraining Notice With Information Subpoena by email and certified mail to each of Blue Sky Holdings and LivWrk on **July 5, 2023**, with a follow up sent to the registered agent for Blue Sky on **July 21, 2023**. These Restraining Notices/Information Subpoenas were refused or ignored.

31. In connection with this Motion, I arranged for personal delivery of revised Restraining Notices/Information Subpoenas to each of Blue Sky and LivWrk; and a Deposition

Notice to LivWrk and to Asher Abehsera individually. I will update the Court as to the status of service.

32. I will submit copies of all documents and records cited or referred to in this Affirmation at the Court's request.

Dated: New York, NY
October 9, 2023



Miriam Tauber
Attorney for Plaintiff/Judgment Creditor